

STATE OF MONTANA TERM CONTRACT

Department of Administration
State Procurement Bureau
165 Mitchell Building
PO Box 200135
Helena, MT 59620-0135
Phone: (406) 444-2575 Fax: (406) 444-2529
TTY Users-Dial 711
<http://gsd.mt.gov/>

T.C. #: WSCA-TC-B27170

NETAPP, INC.

WESTERN STATES CONTRACTING ALLIANCE

Title: COMPUTER EQUIPMENT, PERIPHERALS AND RELATED SERVICES

This is an Exclusive contract.

CONTRACT TERM	FROM	January 27, 2010	CONTRACT STATUS	NEW (X)
	TO	August 31, 2012		RENEW ()
VENDOR ADDRESS	NetApp, Inc. 1921 Gallows Road Suite 600 Vienna, VA 22812		ORDER ADDRESS	See Participating Addendum
ATTN:	Denise Orosco			
PHONE:	530-644-1467			
FAX:	703-918-7301			
E-MAIL:	denise.orosco@netapp.com			

REMARKS:

Current pricing is available at <http://www.mmd.admin.state.mn.us/wsca/wsca.htm> Click on the "2009-2014 Contracts" link at the top of the page. Then find the manufacturer you're looking for and click on their link for pricing and other specific information.

This contract is considered to be an "Exclusive" use contract and state agencies must obtain the specified product/service from the WSCA named contract holder(s), unless an exception is granted by the State Procurement Bureau. The University System, at its discretion, has optional use of this contract.

This contract is **NOT** for the purchase of major, large hardware or hardware and software offerings. In general, individual units/configurations for servers and storage (SANs, etc.) shall not exceed \$300,000 each. Desktop per unit/configuration cost shall not exceed \$100,000. Printers of all types and monitors per unit/configuration costs shall not exceed \$50,000 each.

IFB/RFP No.: WSCA


Robert Oliver, Contracts Officer

DATE: January 27, 2010

AUTHORIZED SIGNATURE

PARTICIPATING ADDENDUM

[hereinafter "Addendum"]

For

WSCA/NASPO PC Contracts 2009-2014

COMPUTER EQUIPMENT, PERIPHERALS, AND RELATED SERVICES

MASTER PRICE AGREEMENT NUMBER B27170

Between

NetApp, Inc.

[hereinafter "Contractor"]

and

State of Montana

[hereinafter "Participating State" or "Participating Entity" (if not a state)]

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1. Scope

This Addendum covers the WSCA/NASPO PC Contracts 2009-2014 (Computer Equipment, Peripherals and Related Services) lead by the State of Minnesota for use by state agencies and other entities located in the Participating State authorized by that state's statutes to utilize state contracts.

2. Participation

Use of specific WSCA/NASPO cooperative contract by state agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

3. Changes:

Additions:

State Participation: All governmental entities within the State of Montana and all registered Cooperative Purchasing Organizations are authorized to purchase products and services under the terms and conditions of the referenced Master Price Agreement. Allowable products are defined in Section 14 of the Master Price Agreement. Entities are subject to all applicable state standards, policies, and procurement law, including the Montana Information Technology Act, before any purchase from this contract.

Exclusive Contract: The intent of this Addendum is to provide state agencies with a means of procuring Computer Equipment, Peripherals and Related Services. This Addendum is considered to be an "Exclusive" use contract and state agencies shall obtain the specified product/service from the WSCA- named contract holder(s), unless an exception is granted by the State Procurement Bureau. The Montana University System, at its discretion, may use this exclusive contract.

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Exceptions: State agencies can submit an exception request to the State Procurement Bureau (SPB) stating the specific reason(s) the agency cannot utilize the products or services offered by the named contractor. Only a written approval from SPB of a submitted exception will permit an agency to purchase products or services outside of the WSCA Addenda.

Reporting and Fees: Contractor shall provide the State of Montana monthly utilization reports for all purchasing activity during same period within this section. These reports shall be provided in the same format as submitted to WSCA/NASPO PC Contracts Reporting person.

Audit of Records: Contractor shall provide the State, the Legislative Auditor or their authorized agent's access to any records necessary to determine compliance with this Addendum. Contractor shall create and retain all records supporting the products and services rendered for a period of three (3) years after either the completion date of this Addendum or the conclusion of any claim, litigation or exception relating to this Addendum taken by the State of Montana or a third party. Reference: 18-1-118, MCA.

Compliance with Laws: The Contractor shall, in performance of work under this participating addendum, fully comply with all applicable federal, state, or local laws, rules, and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform under this addendum will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this Addendum.

Purchasing Card: The State of Montana has a Purchasing Card Program in place that gives agencies the ability to charge purchases made from these contracts. The State of Montana prefers this method of payment.

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Technology Access for Blind or Visually Impaired: Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Section 18-5-603, MCA.).

Purchase Approvals: All Server, Server-LAN Storage purchases require prior Department of Administration, Information Technology Services Division, approval. Non-State agencies are not required to obtain this approval.

Compliance with State Plans: The Contractor is notified that pursuant to 2-17-514, MCA, the Department of Administration retains the right to cancel or modify any contract, project or activity that is not in compliance with the Agency's Plan for Information Technology, the State Strategic Plan for Information Technology, or any statewide IT policy or standard

4. Continuation of Participation from WSCA/NASPO PC Contracts 2004-2009:

To the extent permitted by the laws and rules of the state in which an individual participating entity is located, valid participating addenda for the WSCA/NASPO PC Contracts 2004-2009 are hereby extended to include participation in the WSCA/NASPO PC Contracts 2009-2014 under the same terms and conditions in the current participating addendum.

If re-execution of a participating addendum or amendment to an existing participating addendum is required by a participating entity, the authorization to participate in the WSCA/NASPO PC Contracts 2004-2009 is sufficient to permit participation in the WSCA/NASPO PC Contracts 2009-2014, unless specifically denied by the appropriate chief state procurements official.

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5. Lease Agreements

Leasing of covered equipment is authorized under this Addendum. State agencies cannot enter a lease agreement under this Addendum without prior review and approval of said lease by the State Procurement Bureau.

6. Primary Contacts

The primary government contact individuals for this Addendum are as follows (or their named successors):

Lead State

Bernadette Kopischke
112 Admin Bldg, St Paul, MN 55155
Telephone: (651) 201-2450
Fax: (651) 297-3996
E-mail: bernie.kopischke@state.mn.us

Contractor

Denise Orosco
1921 Gallows Road, Suite 600, Vienna, VA 22812
Telephone: (530) 644-1467 Home Office PST
Fax: (703) 918-7301
E-mail: Denise.Orosco@NetApp.com

Participating State

Robert Oliver
State of Montana, State Procurement Bureau
125 N. Roberts Street, Mitchell Building, Room 165
Helena, MT 59620-0135
Phone: (406) 444-0110
Fax: (406) 444-2529
E-mail: roliver@mt.gov

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7. Servicing Subcontractors:

The following servicing contractors are authorized:

(All contractor authorized business partners listed on the state's landing page on this website <http://www.netapp.com/us/how-to-buy/wsca/wsca.html>.)

All orders are to be issued directly to: All contractor authorized business partners listed on the state's landing page on this website <http://www.netapp.com/us/how-to-buy/wsca/wsca.html>.

And all payments are to be issued to: All contractor authorized business partners listed on the state's landing page on this website <http://www.netapp.com/us/how-to-buy/wsca/wsca.html>.

All purchase orders issued by purchasing entities with the jurisdiction of this Addendum must include the Participating State contract number: WSCA-TC-B27170; and the Master Price Agreement Number: B27170

8. Compliance with reporting requirements of the "American Recovery and Reinvestment Act of 2009" ("ARRA"): If or when contractor is notified by ordering entity that a specific purchase or purchases are being made with ARRA funds, contractor agrees to comply with the data element and reporting requirements as currently defined in Federal Register Vol 74 #61, Pages 14824-14829 (or subsequent changes or modifications to these requirements as published by the Federal OMB). Ordering entity is responsible for informing contractor as soon as the ordering entity is aware that ARRA funds are being used for a purchase or purchases. Contractor will provide the required report to the ordering entity with the invoice presented to the ordering entity for payment. The contractor, as it relates to purchases under this contract, is not a subcontractor or subgrantee, but simply a provider of goods and related services.

This Addendum and the Master Price Agreement together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Master Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Master Price

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Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Master Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms. This Addendum applies only in the jurisdiction of the Participating State or Participating Entity which has executed this Addendum.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by Contractor below.

State of Montana

By: 

Name: Marvin Eicholtz

Title: Administrator, General Services Division

Date: 1/27/2010



Dick Clark, CIO
State of Montana

1/21/10
Date

NetApp, Inc.

By: 

Name: Mark Weber

Title: Vice President, NetApp, Inc.

Date: 1/26/10

Approved as to Legal Content:

 1/21/2010

Mike Marion, Chief Legal Counsel Date
Department of Administration